

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:19CR79
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
vs.)	
)	
MARTIN FANO,)	<u>OPINION & ORDER</u>
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J.:

This matter comes before the Court on the Government’s Motion in Limine to exclude evidence of Defendant’s lawfulness and non-corrupt conduct. (Doc. 22). The Government argues the Court should bar Defendant from offering evidence of Defendant’s specific “good acts.” Furthermore, if Defendant intends to introduce certain specific acts, the Government asks the Court to require Defendant to disclose this evidence in advance of trial.

Defendant claims the issue is more nuanced than the Government suggests. (Doc. 27). According to Defendant “evidence relevant to the factual circumstances and background to the actions” of Defendant is permissible evidence. Defendant does not intend to introduce specific occasions of good conduct. Rather, Defendant intends to offer more detail surrounding his

alleged bad acts.

The Court agrees with Defendant. As Defendant rightly pointed out, the Government has charged Defendant with a “scheme to defraud.” The facts and circumstances surrounding the alleged scheme are highly relevant to the case. Accordingly, the Court will allow the jury to consider a broad range of pertinent evidence.

Any concern of the Government may be remedied by a limiting instruction at the time of the jury charge. Further, the more Defendant seeks to offer “specific acts” as opposed to the circumstances of the alleged acts, the more inclined the Court may be to sustain the Government’s objection. Finally, to the extent Defendant’s character becomes relevant, the Government correctly points out that it may rebut Defendant’s character with its own evidence to the contrary.

For the above mentioned reasons, the Court preliminarily **DENIES** the Government’s request. Defendant may introduce evidence relevant to the factual circumstances and background to provide the full context of his alleged actions.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

Dated: June 14, 2019